

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1224**

In the Matter of the Welfare of the Children of:
P. M. and A. M., Parents.

**Filed January 17, 2023
Affirmed
Ross, Judge**

Mower County District Court
File No. 50-JV-21-1398

Daniel T. Donnelly, Donnelly Law Office, Austin, Minnesota (for appellant-mother P.M.)

Paul Spyhalski, Austin, Minnesota (for respondent-father A.M.)

Kristen Nelsen, Mower County Attorney, Aaron Jones, Assistant County Attorney, Austin, Minnesota (for respondent Mower County Health and Human Services)

Todd Schoonover, Hollandale, Minnesota (guardian ad litem)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Police arrested appellant mother for drug dealing and found drugs in her home with her children present after respondent Mower County Health and Human Services received a report that the children were left alone and not attending school. The county placed the children in foster care and petitioned the court to transfer permanent custody to the children's aunt and uncle. Mother challenges the district court's order granting the petition.

Because we determine that mother forfeited all arguments not adequately briefed, and because even on the merits we see no error in the trial court's custody-transfer order, we affirm.

FACTS

Mother (P.M.) and father (A.M.) ended their romantic relationship after father went to Texas in May 2019. Father returned to Minnesota in July when he heard that mother was not caring for their three children and had left them with her friend. Father found the children in mother's friend's home with none of their personal possessions. He took the children to Texas and cared for them until August 2019, when mother assured him that she was receiving county assistance to secure housing and had become employed in Minnesota. Father brought two of the children back to Minnesota and left them in mother's care, but he retrieved them in December 2019 after he learned that mother had again left them in someone else's care. He cared for them in Texas without mother for one year.

Mother went to Texas in December 2020. She had not seen the children for a year and did not communicate with them regularly. Father was not present, and mother took the two youngest children (then ages seven and four) and brought them back to Minnesota. She left the oldest child in Texas.

A month later, Mower County Health and Human Services received a report in January 2021 alleging that the children were alone in mother's home and not attending school. Police arrested mother the next day on a drug-sale charge. When police entered mother's apartment, they found the children and methamphetamine inside. The state

charged mother with additional felonies. County child-protection workers removed the two children from the home, and mother agreed they needed protective services.

Mother and a county child-protection caseworker developed a case plan that included mother's abstaining from drugs, completing a chemical-dependency assessment, attending parenting classes, securing safe and stable housing, and completing a mental-health evaluation. Mother entered treatment in March 2021 but left three days later. Police arrested her on outstanding criminal charges. The county caseworker did not hear from mother from July to September 2021.

Mother entered residential chemical-dependency treatment in September 2021. The county petitioned the district court to transfer permanent custody of the two children to their aunt and uncle (father's sister and her husband), who lived in Texas. The case proceeded to a hearing on the custody-transfer petition in October 2021.

Mother and father both testified at the October hearing, as did the children's guardian ad litem, mother's caseworker, and the children's aunt. Father waived his rights and agreed to the custody transfer. The testimony revealed that the children had been placed in foster care after the events of January 2021 and that they had supervised visits with mother only until May 2021, after which they had only sporadic contact with her until she entered treatment the month before the hearing. After mother entered treatment, the children spoke with her daily and had twice-weekly video calls. Mother testified that she was planning to leave the treatment program the following month, which is substantially earlier than the program's typical parameters, and she revealed that she lacked a plan for

her housing. She said that she was scheduled to be interviewed to live in sober housing where the children could visit.

The children's guardian ad litem testified that both children had negative reactions after they interacted with mother, and he testified that he did not think it was in the best interests of the children to return to her care soon. The county caseworker opined that it would not be safe for the children to be with mother for the foreseeable future. Testimony also established that the children wished to move to Texas to live with their sister, who had remained in Texas with father and who was then living with the children's aunt and uncle. The district court ordered custody permanently transferred to the aunt and uncle.

Mother appeals the order.

DECISION

Mother raises three arguments in her appeal challenging the custody-change order. She contends that the district court erred by determining that the county made reasonable efforts to reunify the family, that mother failed to correct the conditions that led to the children's placement in foster care, and that transfer is in the children's best interests. She also appears to raise the issue of whether the district court properly considered her efforts to correct home conditions. We address these issues as one argument that the district court erroneously permanently transferred custody under Minnesota Statutes section 260C.517 (2022).

Mother offers only conclusory, unsupported assertions of error. We decline to reach issues that are not adequately briefed. *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 324 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015). Mother's brief fails to support

her four positions with legal citation, reasoned argument, or explanation, and she fails to identify any particular findings that she contends to be erroneous. We therefore affirm the district court's order.

We add that, even if we reached the merits of mother's challenge, the result would be the same because we see no error in the district court's custody-transfer order. A permanency order must include detailed findings on four factors:

- (1) how the child's best interests are served by the order;
- (2) the nature and extent of the responsible social services agency's reasonable efforts or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;
- (3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and
- (4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

Minn. Stat. § 260C.517(a). Each of the four statutorily required findings must be proved by clear and convincing evidence. *See* Minn. R. Juv. Prot. P. 58.03, subd. 1. We address a challenged permanent transfer of custody by reviewing the district court's factual findings for clear error and its finding of a statutory basis for the order for an abuse of discretion. *D.L.D.*, 865 N.W.2d at 321–22. Since the allegations must be proved by clear and convincing evidence, we decide whether the district court's findings “address the statutory criteria and are supported by substantial evidence, or whether they are clearly erroneous.” *In re Welfare of A.R.G.-B.*, 551 N.W.2d 256, 261 (Minn. App. 1996) (quotation omitted). Our careful review of the record convinces us that the order should survive mother's appeal.

Regarding the best interests of the children, the evidence appears to adequately support the district court's factual findings and legal determination. The district court was required to assess best interests by considering all relevant factors, such as the children's relationships with relatives and other relevant persons. Minn. Stat. §§ 260C.513, .511 (2022); *see also In re Welfare of Child. of J.C.L.*, 958 N.W.2d 653, 657 (Minn. App. 2021), *rev. denied* (May 12, 2021). The district court found that the bond between mother and children was damaged; that the children had suffered emotional trauma and wanted to live with their aunt and uncle; and that their established relationship with their aunt and uncle would allow them to repair relationships with their mother and father over time. Ample testimony supports each finding.

The district court also properly applied the law to the agency's reunification efforts. It found that the county caseworker created a plan for mother that "required the mother to abstain from unprescribed mood altering chemicals, complete and follow a chemical dependency assessment, and attend and follow all recommendations from any necessary chemical dependency treatment." It emphasized too that "mother was also ordered to complete parenting classes and a mental health evaluation and follow all the recommendations." And it found that mother had no contact with her caseworker for about three months, left the caseworker unaware of her whereabouts, and did not follow through until September 2021 with her promise to enter treatment. The district court's analysis of this factor is well reasoned.

As to mother's effort and ability to use services, the district court determined that mother did not make any progress on her case plan until September 2021 and that she has

made minimal progress towards sobriety and safe living. Despite mother's challenge to the district court's conclusion, we will not reweigh the evidence on appeal. *D.L.D.*, 865 N.W.2d at 321–22. And regarding mother's contentions that the findings create the impression of a lack of effort and convey a negative impression of her ability to reestablish a relationship with her children, even if there was some evidence to support a different finding, we are in no position on appeal to substitute our judgment for the district court's assessment (which, again, is supported by the evidence).

The district court's conclusion that the conditions leading to out-of-home placement had not been corrected at the time of trial also rests on sufficient support in the record. It found that mother did not have a housing plan that would allow her to care for her children and that she continues to minimize her role in the children's emotional trauma. And it found that these circumstances related to the placement-initiating conditions that endangered the children's emotional and physical well-being. The record contains abundant evidence for these findings.

Affirmed.